

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

VALLAVISTA CORPORATION,
a California corporation,

Plaintiff,

v.

AMAZON.COM, INC., a Delaware corporation,
TARGET CORPORATION, a Minnesota
corporation, EBAGS, INC., a Colorado
corporation, EMPORIUM LEATHER
COMPANY, INC., a New Jersey corporation,
doing business as ROYCE LEATHER, and
FASHION HANDBAGS, INC., a Nevada
corporation, doing business as BO BO BAGS,

Defendants.

No. C 07-05360 WHA

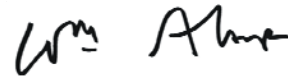
**ORDER DENYING MOTION
TO STAY**

In this trademark infringement action, defendant Target Corporation moves to stay all proceedings pending the outcome of a trademark cancellation proceeding filed with the USPTO. This action was filed on October 19, 2007, by plaintiff Vallavista Corporation alleging infringement of its United States Trademark Registration No. 2,008,495 for the mark "Taxi Wallet." Fact discovery has since completed and trial is scheduled to proceed on January 5, 2009. According to Target, on September 23, 2008, it discovered that plaintiff made fraudulent statements to the USPTO during the prosecution of the '495 mark. More specifically, Target alleges that plaintiff submitted affidavits to the USPTO that falsely represented that the '495 mark had previously been used in connection with the sale of goods. Target's evidence is based on the deposition transcript of Alicia Klein, plaintiff's principal. Target then filed a petition with the USPTO to cancel the '495 mark and now, a little over two months before trial is

1 scheduled to begin, moves to stay. The motion is **DENIED**. Significantly, Target has given no
2 credible reason why this Court is not in a better position to evaluate all claims in this matter —
3 including the alleged misrepresentations made by plaintiff to the USPTO. In addition, the
4 ground for Target's petition to cancel are uncertain at best. Staying this case pending a decision
5 by the USPTO, in what will no doubt be a long and delayed process, would simply be
6 imprudent. Fact discovery has closed and this case is ready to move forward. Target will be
7 given leave to amend its answer to add its newly discovered counterclaim, but no new summary
8 judgment motion should be filed.

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10 **IT IS SO ORDERED.**

11 Dated: October 27, 2008.



12 WILLIAM ALSUP
13 UNITED STATES DISTRICT JUDGE
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